BILL NO. Z-84-06-20

ZONING MAP ORDINANCE NO. Z-Withdrawn

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. K-38.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated an RA (Suburban Residential) District under the terms of Chapter 33 of the Code of the City of Fort Wayne, Indana of 1947:

> Part of Tract Numbered 5 in Dreyer's Subdivision in Sections 14 and 15, Township 31 North, Range 12 East, Allen County, Indiana, as recorded in Plat Book 9, page 61 in the Office of the Recorder of said Allen County, described as follows:
>
> Commencing at the northwest corner of said Tract 5; thence East along the North line thereof said line being also the centerline of Ludwig Road, 349.7 feet; thence South along the West line of Lot 20 in Ludwig Park Addition, as recorded in Plat Book 23, page 49, a distance of 279.8 feet to the point of beginning; thence continuing South along said West line and the West line of Lot 21, said Addition, 210.0 feet to a point situated 160.0 feet north of the South line of said Tract 5; thence West parallel to said South line, 171.0 feet to the East right-of-way line of a frontage road as described in Deed Record 599, page 246; thence Northwesterly along said right-of-way line 212.2 feet to a point situated 279.8 feet South of the North line of said Tract 5; thence East parallel to said North line, 197.3 feet to the point of beginning, containing 0.888 acres more or less and subject to easements of record

and the symbols of the City of Fort Wayne Zoning Map No. K-38, as established by Section 11 of Chapter 33 of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Samuel J. Talarico
COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY

BRUCE O. BOXBERGER, CITY ATTORNEY

Read the first time in full and on motion by Talarico, seconded by Redd, and duly adopted, read the second time by title and referred to the Committee Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ____.M.,E.S

DATE: 6-26-84 Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

| | AYES | NAYS | ABSTAINED | ABSENT | TO-WIT: |
|---|---|---|---|---|---|
| TOTAL VOTES | ____ | ____ | _____ | _____ | _____ |
| BRADBURY | ____ | ____ | _____ | _____ | _____ |
| BURNS | ____ | ____ | _____ | _____ | _____ |
| EISBART | ____ | ____ | _____ | _____ | _____ |
| GiaQUINTA | ____ | ____ | _____ | _____ | _____ |
| HENRY | ____ | ____ | _____ | _____ | _____ |
| REDD | ____ | ____ | _____ | _____ | _____ |
| SCHMIDT | ____ | ____ | _____ | _____ | _____ |
| STIER | ____ | ____ | _____ | _____ | _____ |
| TALARICO | ____ | ____ | _____ | _____ | _____ |

DATE: _____

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. _____ on the _____ day of _____, 19____,

ATTEST: (SEAL)

_____ _____

SANDRA E. KENNEDY, CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____.M.,E.S.T.

_____

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____.M.,E.S.T.

_____

WIN MOSES, JR., MAYOR

PETITION FOR ZONING ORDINANCE AMENDMENT

RECEIPT NO. _____

DATE FILED _____

INTENDED USE _____

THIS IS TO BE FILED IN DUPLICATE

I/We DEVELOPMENTAL DESIGN INC - PHILLIP D. TROYER
(Applicant's Name or Names)

do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from a/an R-1 District to a/an R-A District the property described as follows:

LOTS 22, 23, 24 TRACT 5 DREYERS SUB DIVISION

(Legal Descrption) If additional space is needed, use reverse side.

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

| | | |
|---|---|---|
| X [signature] | | |
| HUGH W. JOHNSTON | | |
| (Name) | (Address) | (Signature) |

(If additional space is needed, use reverse side.)

Legal Description checked by _____
(OFFICE USE ONLY)

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or requst that the ordinance be taken under advisement shall be filed in writing and be submitte to the City Plan Commission prior to the legal notice pertaining to the ordin being sent to the newspaper for legal publication. If the request for deferr continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at wh it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that a ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the ma for hearing before the City Plan Commission. (FILING FEE $50.00)

Name and address of the preparer, attorney or agent.

| | | |
|---|---|---|
| Phillip D. TROYER | BOX 154 LAOTTO 46763 | 424-2230<br>897-2587 |
| (Name) | (Address & Zip Code) | (Telephone Number) |

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street Fort Wayne, IN 46802 (PHONE: 219/423-7571)

Applicants, Property owners and preparer shall be notified of the Public Hear approximately ten (10) days prior to the meeting.

OWENS RUSSELL ASSOCIATES

1402 EAST STATE BLVD.
FORT WAYNE, IN. 46805
PHONE: 484-7500

## CERTIFICATE OF SURVEY

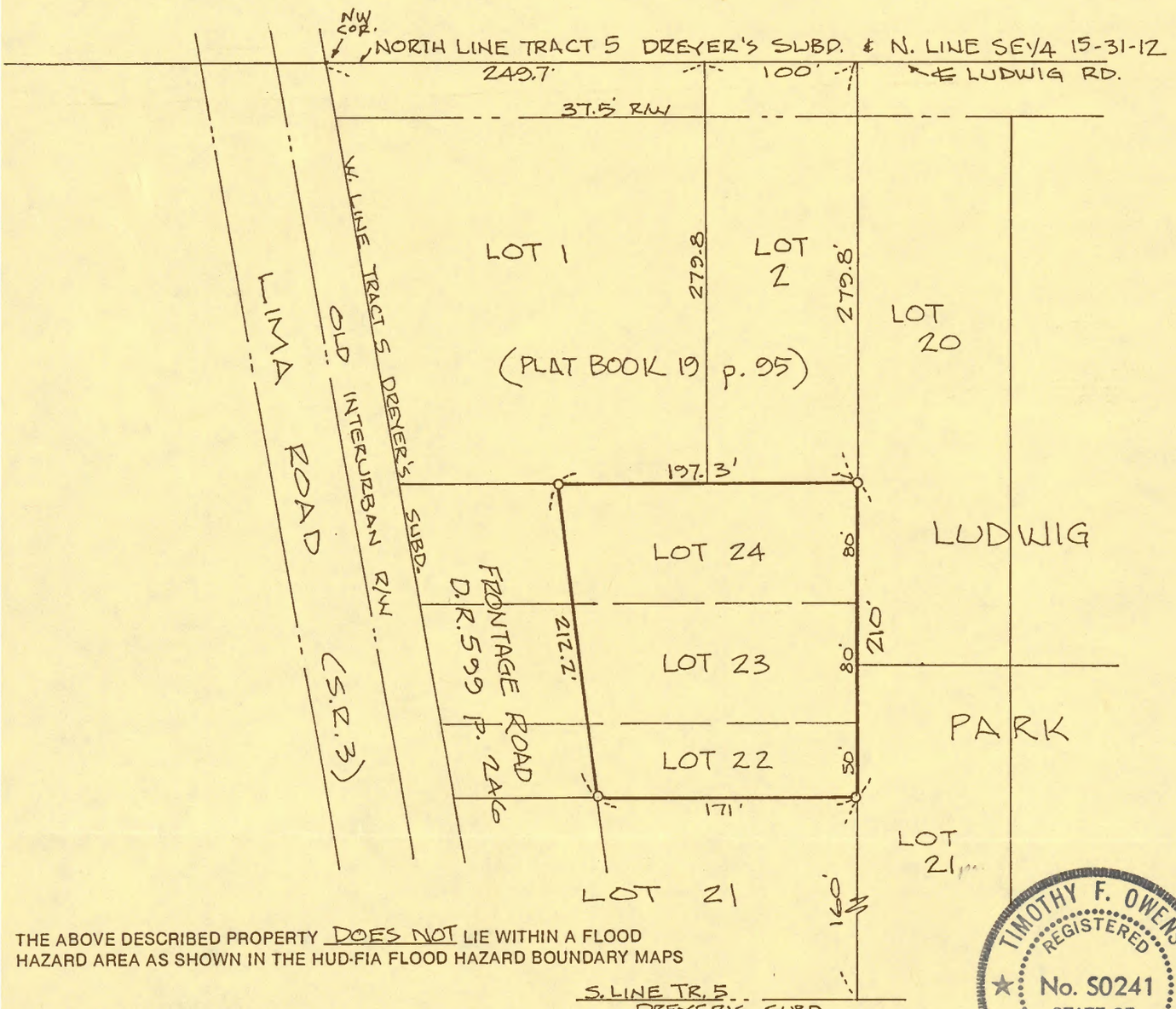
The undersigned Land Surveyor, registered under the Laws of the State of Indiana, hereby certifies that he has made a resurvey of the real estate described and shown below, that measurements were made and monuments were set in conformity with records on file in the office of the Recorder of ALLEN County, Indiana and that any encroachments or discrepancies found on said real estate are shown below.

**Legal description of real estate:**

Part of Tract numbered 5 in Dreyer's Subdivision in Sections 14 and 15, Township 31 North, Range 12 East, Allen County, Indiana, as recorded in Plat Book 9, page 61 in the Office of the Recorder of said Allen County, described as follows:

Commencing at the northwest corner of said Tract 5; thence East along the North line thereof said line being also the centerline of Ludwig Road, 349.7 feet; thence South along the West line of Lot 20 in Ludwig Park Addition, as recorded in Plat Book 23, page 49, a distance of 279.8 feet to the point of beginning; thence continuing South along said West line and the West line of Lot 21, said Addition, 210.0 feet to a point situated 160.0 feet north of the South line of said Tract 5; thence West parallel to said South line, 171.0 feet to the East right of way line of a frontage road as described in Deed Record 599, page 246; thence Northwesterly along said right of way line 212.2 feet to a point situated 279.8 feet South of the North line of said Tract 5; thence East parallel to said North line, 197.3 feet to the point of beginning, containing 0.888 acres more or less and subject to easements of record.

The above described property being part of Lots 22, 23 and 24 in the subdivision of said Tract 5 as recorded in Plat Book 19, page 95 in the Allen County Recorder's Office.




THE ABOVE DESCRIBED PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARD AREA AS SHOWN IN THE HUD-FIA FLOOD HAZARD BOUNDARY MAPS

FOR THE EXCLUSIVE USE OF:

Phil Troyer

DATE May 31, 1984

JOB NO. 584-86

TIMOTHY F. OWENS REGISTERED No. S0241 STATE OF INDIANA LAND SURVEYOR

Timothy F. Owens

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on June 26, 1984, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-84-06-20; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on June 26, 1984;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact":

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held August 27, 1984.

Certified and signed this
29th day of August 1984.

Melvin O. Smith
Secretary

Prescribed by State Board of Accounts

A.E. BOYCE CO., MUNCIE, IND. GENERAL FORM NO. 352

# RECEIPT

CK # 1341

No 10687

COMMUNITY DEVELOPMENT & PLANNING

FT. WAYNE, IND., May 21, 1984

RECEIVED FROM Development Design, Inc. $ 50.00

THE SUM OF Fifty and 00/100 DOLLARS

ON ACCOUNT OF rezoning

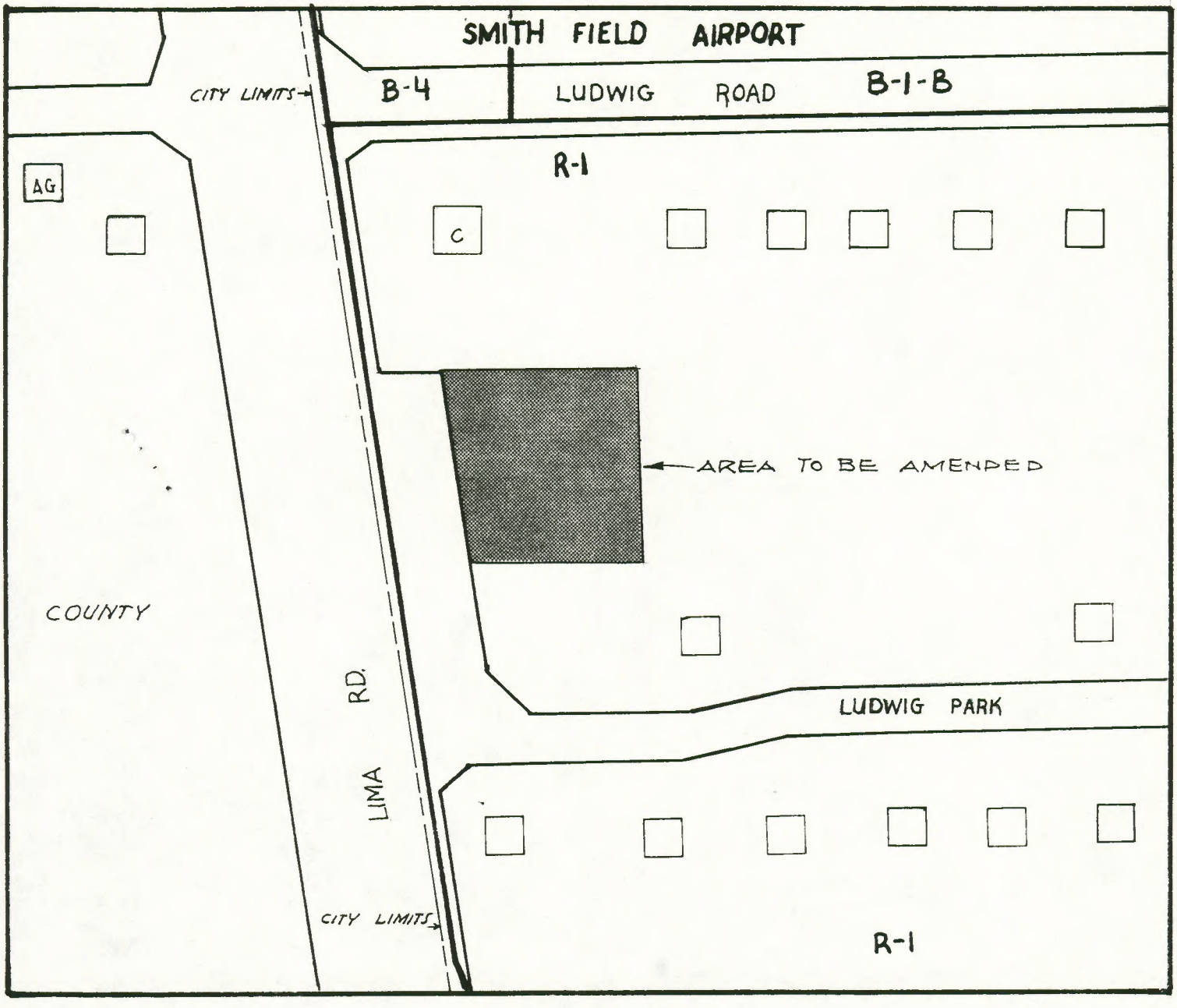
AUTHORIZED SIGNATURE

# ZONING PETITION NO. O-76

A PETITION TO AMEND THE ZONING MAP BY RECLASSIFYING THE DESCRIBED PROPERTY FROM AN R-1 DISTRICT TO AN R-A DISTRICT.

Zoning Map No. K-38

COUNCILMANIC DISTRICT NO. 3




ZONING:

R-1 RESIDENTIAL DISTRICT

B-1-B BUSINESS DISTRICT

B-4 BUSINESS DISTRICT

LAND USE:

□ SINGLE FAMILY

[C] COMMERCIAL

[AG] AGRICULTURE

NORTH

SCALE: 1" = 137'

Z-84-06-20

BILL NO. Z-84-06-20

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN ORDINANCE amending the City of Fort Wayne Zoning Map No. K-38

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE ~~DO~~ to withdraw PASS.

JANET G. BRADBURY, CHAIRWOMAN — Janet G Bradbury

SAMUEL J. TALARICO, VICE CHAIRMAN

CHARLES B. REDD — Charles B. Redd

MARK E. GiaQUINTA — Mark E. GiaQuinta

JAMES S. STIER

# Memorandum

To George Martin Date 14 September 1984

From Gary Baeten, Senior Planner - CD&P

Subject Legal Opinion

COPIES TO:

In situations where the City Council withdraws a request for rezoning which was sent to them by the City Plan Commission with a "DO PASS" recommendation, must the petitioner wait one year to re-submit the rezoning request to the Plan Commission for rezoning. Please respond as soon as possible.

Thanks.

Gary Baeten

/pb

RECEIVED
SEP 10 1984
FORT WAYNE
CITY PLANNING COMMISSION

IC 36-7-4-609(a) states that if the Plan Commission rejects a proposed ordinance and the Common Council does not act on it within 90 days, the rezoning should be considered rejected and cannot be raised again for one year. However, your question deals with a "Do Pass" from the Plan Commission and a withdrawal from City Council. The statute is silent on such a case. In my opinion, this would not prevent petitioner from initiating a new rezoning at any time. However, the better practice would seem to have the City Council rescind the withdrawal.

George Martin

George Martin

# FACT SHEET

Z-84-06-20
BILL NUMBER

## Division of Community Development & Planning

| BRIEF TITLE | APPROVAL DEADLINE | REASON |
|---|---|---|
| Zoning Ordinance Amendment | None | |

**DETAILS**

**Specific Location and/or Address**
0.888 Acres located off of S.R. #3 and adjacent to Ludwig Park Drive

**Reason for Project**
Multi-Family development.

**Discussion (Including relationship to other Council actions)**

Phil Troyer, developer stated that he was proposing this project as a buffer between the Ludwig Park neighborhood and the commercial areas that exist on S.R.#3. He stated that the general area has a large commercial project to the north and south. He felt this project would help maintain the residenital structure of the area. He stated this project will contain 12 2-bedroom units with a size of 1,000 sq. ft. each.

Ben Eisbart read a memo from V.C. Seth, Director of Planning regarding a phone call from Mr. Russell Thompson, president of the Ludwig Park Association. He stated that the Ludwig Park Association was opposed to any change of zone that would permit any multiple family construction.

Marion Bedree, 1509 W. Ludwig Road stated she di not want any two-story buildings adjacent to her property. She felt it would be an invasion of her privacy.

No other opposition.

| POSITIONS | RECOMMENDATIONS |
|---|---|
| **Sponsor** | City Plan Commission |
| **Area Affected** | City Wide<br>Other Areas |
| **Applicants/ Proponents** | Applicant(s) Philip Troyer, Development Design, Inc.<br>City Department<br>Other |
| **Opponents** | Groups or Individuals<br>Russell Thompson<br>Marion Bedree<br>Basis of Opposition<br>- did not want multi-family development in area<br>- disliked height of bldgs. |
| **Staff Recommendation** | ☐ For ☒ Against<br>Reason Against<br>-not compatible with area<br>-constitute spot zoning<br>-would open area for other similar requests |
| **Board or Commission Recommendation** | By<br>☒ For ☐ Against<br>☐ No Action Taken<br>☐ For with revisions to conditions<br>(See Details column for conditions |
| **CITY COUNCIL ACTIONS** (For Council use only) | ☐ Pass ☐ Other<br>☐ Pass (as amended) ☐ Hold<br>☐ Council Sub. ☐ Do not pass |

**DETAILS**

June 25, 1984 - Business Meeting

Site Committee recommend a deferral for one month in order for the developer to modify its plans with regard to reducing density, lower building heights, retain & provide dense vegetation to to protect existing & future residences.

July 23, 1984 - Business Meeting

Project was once again deferred until the plans could be further modified.

August 20, 1984 - Business Meeting

The following memo from V.C. Seth was acted upon.

"On August 16, 1984, I visited with Mr. Thompson President of Ludwig Park Community Association to discuss the revised plan and layout of the development.

Based upon the reduced number of dwelling units to ten (10); decreased number of parking spaces to provide additional landscaping on the east lot line; and lowering of building heights both on the east and west ends of the buildings the Ludwig Park Association has withdrawn any objection to this project by Mr. Troyer."

Based upon this recommendation the rezoning was approved. The conditions stated above will be incorporated into the development plan approval.

**POLICY/PROGRAM IMPACT**

| | |
|---|---|
| Policy or Program Change | [XX] No [ ] Yes |
| Operational Impact Assessment | |

(This space for further discussion)

**Project Start** **Date** May 21, 1984

**Projected Completion or Occupancy** **Date** August 27, 1984

**Fact Sheet Prepared by** **Date** August 29, 1984

Patricia Biancaniello

**Reviewed by** **Date**

**Reference or Case Number**

ORIGINAL

Admn. Appr. _____

DIGEST SHEET

ORIGINAL

3-84-06-20

TITLE OF ORDINANCE Zoning Map Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - CD&P

SYNOPSIS OF ORDINANCE Located off of State Road #3 adjacent to Ludwig Park Drive. 0.88 acres more or less Councilmanic District No. 3

EFFECT OF PASSAGE Property is now zoned R-1 - Single Family Residential. Property will become RA - Suburban Residential.

EFFECT OF NON-PASSAGE Property will remain R-1 - Single Family Residential.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE (J.N.) _____